IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 13573 of 2004

Between:

1 Ch. Padmavathi, W/o Suranna Chowdhary,
R/o Venkatayapalem (V),Ramachandrapuram (M),

East Godavari District.
2 M. Satyanarayana @ Satyaprasad, S/o Bhaskararao,
R/o Venkatayapalem (V),Ramachandrapuram (M),

East Godavari District.
3 Y. Veerraju Chowdary, s/o Veerraju,
R/o Venkatayapalem (V),Ramachandrapuram (M),

East Godavari District.
4 N. Vijayalakshmi, W/o Veeravenkata Satyanarayana,
R/o Venkatayapalem (V),Ramachandrapuram (M),

East Godavari District.
5 S. Gopalakrishna, S/o Ramaswamy,
R/o Dasaripadu H/o Venkatayapalem (V),

Ramachandrapuram (M), East Godavari District.
6 T. Veeranna, S/o China Ammiraju,
R/o Venkatayapalem (V),Ramachandrapuram (M),

East Godavari District.
7 T. Ramachandrarao, S/o Appanna,
R/o Venkatayapalem (V),Ramachandrapuram (M),

East Godavari District.
8 S. Venkatarao, S/o Bulisatyam,
R/o Dasaripadu H/o Venkatayapalem (V),

Ramachandrapuram (M), East Godavari District.
9 T. Ramu, S/o Pundarikakshulu,
R/o Venkatayapalem (V),Ramachandrapuram (M),

East Godavari District.
10. S.Ananthalakshmi, W/o Kameswararao,
R/o Dasaripadu H/o Venkatayapalem (V),

Ramachandrapuram (M), East Godavari District.

..... PETITIONER(S)

AND

1 Assistant Divisional Engineer (Construction),

South Central Railway, Ramachandrapuram,
East Godavari District.
2 District Collector, East Godavari District, Kakinada.
3 Revenue Divisional Officer, Rajahmundry,

East Godavari District.
4 The Mandal Revenue Officer, Ramachandrapuram (M),

East Godavari District.

5 The Deputy Executive Engineer, PWD Department, (Drains),
Ramachandrapuram, East Godavari District.
6 The Chairman , Water Users Association, Yerrapothavaram,

Ramachandrapuram, East Godavari District.

..RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in he nature of Writ of Mandamus declaring the contemplated action of the respondents to open a new sluice under Kakinada - Kotipalli Railway track at Venkatayapalem village near the lands of the petitioners without following due process of law under Sections 11, 12, 15 and 16 of the Railways Act and paragraph 3 of Order 91 of A.P. Board of Revenue Standing Orders, is illegal, irregular and violative of principles of natural justice and Articles 14, 19, 21 and 300-A of the Constitution of India and consequently direct the respondents not to open sluice without constructing continuation drain after acquiring the required lands and paying compensation therefore.

Counsel for the Petitioners : MR.SATYANARAYANA NIMMAGADDA, Advocate

Counsel for the Respondent No.1 : MR.GOURI SHANKAR SANGHI, SC for Railways.

Counsel for the Respondent No.2 to 5 : G.P. for Revenue.

Counsel for the Respondent No.6 : ---

The Court made the following :

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O R D E R :

This writ petition is filed seeking the following relief.

Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in he nature of Writ of Mandamus **declaring the contemplated action of the respondents to open a new sluice under Kakinada - Kotipalli Railway track at Venkatayapalem village near the lands of the petitioners without following due process of law** under Sections 11, 12, 15 and 16 of the Railways Act and paragraph 3 of Order 91 of A.P. Board of Revenue Standing Orders, is illegal, irregular and violative of principles of natural justice and Articles 14, 19, 21 and 300-A of the Constitution of India and consequently direct the respondents not to open sluice without constructing continuation drain after acquiring the required lands and paying compensation therefore.

As seen, this writ petition is filed invoking the extraordinary jurisdiction of this Court seeking a declaration in respect of *'Contemplated action of the respondents'*. A writ cannot be issued prohibiting the Public Authorities from taking any work, which is at the stage of contemplation or proposal or planning. The power under Article 226 of the Constitution of India is not intended for the same. Further, the grievance of the petitioners that if the sluice is constructed as a part of the construction of Kakinada-Kotipalli Railway Track without proper drain the lands of the petitioners and others would be inundated due to lack of proper drain, is purely a technical matter and this Court has no manner of doubt that the respondents have not looked into this aspect. Further, the petitioners have already made representations to the first respondent for proper redressal. Even before any response is given by the first respondent, the

present writ petition is filed, which, in the opinion of the Court, is filed to thwart the execution of a Railway Project which has been pending for the last about three decades. The petitioners may pursue their remedy with the District Collector and the first respondent herein.

The writ petition, with the above observations, is dismissed. No costs.

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(V.V.S. RAO, J.)

Dt. 04-08-2004.

Msr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Assistant Divisiional Engineer (Construction),

South Central Railway, Ramachandrapuram,
East Godavari District.
2 District Collector, East Godavari District, Kakinada.
3 Revenue Divisional Officer, Rajahmundry,

East Godavari District.
4 The Mandal Revenue Officer, Ramachandrapuram (M),

East Godavari District.
5 The Deputy Executive Engineer, PWD Department, (Drains),
Ramachandrapuram, East Godavari District.

6.2CCs to Government Pleader for Revenue, High Court of A.P.,

Hyderabad.

7.2CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.13573 of 2004

Dt.04-08-2004.

(Msr)